

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6628

IN THE MATTER OF:

Served April 23, 2002

Application of ANGELIC LUXURY )  
COACH, INC., for a Certificate ) Case No. AP-2002-16  
of Authority -- Irregular Route )  
Operations )

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

Applicant's president, Ernest T. Givens, also controls A-Total Transportation Service, Inc., WMATC Carrier No. 425.

Applications for certificates of authority are governed by Title II of the Compact, Article XI, Section 7. Applications for approval of common control are governed by Article XII, Section 3.

**I. CERTIFICATE OF AUTHORITY**

Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one motorcoach. Applicant's proposed tariff contains airport transfer rates, an hourly charter rate, with a minimum charge and sightseeing rates with a minimum charge.

Applicant filed a balance sheet as of January 18, 2002, showing assets of \$371,874; liabilities of \$410,000; and negative equity of \$38,126. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$190,000; other revenue of \$95,000; expenses of \$199,643; and net income of \$85,357.

Normally, negative equity raises the issue of an applicant's financial fitness, but in this case the balance sheet shows equity as a negative number because applicant has valued its debt to include all future interest. According to applicant, all of the \$410,000 in balance sheet debt represents the cost of acquiring applicant's bus, which according to applicant was \$358,000. After removing the interest portion of the debt listed on the balance sheet -- the interest portion being the difference between the cost of the bus and applicant's inflated debt figure -- and assuming no down payment, applicant's equity becomes a positive \$13,874. A down payment would only make that number larger.

In any event, applicant's current assets and projected cash flow are sufficient to cover both current liabilities and projected expenses. We have found other applicants financially fit under similar circumstances.<sup>1</sup>

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

## II. COMMON CONTROL

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more WMATC carriers, through ownership of stock or other means, if the Commission finds that common control is consistent with the public interest. The public interest analysis focuses on the fitness of the controlling party, the resulting competitive balance, and the interest of affected employees.<sup>2</sup>

The three public interest factors warrant approval in this case. First, a presumption of the controlling party's fitness obtains where the controlling party, in this case Mr. Givens, controls an existing WMATC carrier.<sup>3</sup> There is nothing in the record to rebut that presumption in this case. Second, there should be no adverse effect on competition from the decision of Mr. Givens to expand service in the Metropolitan District through a new corporation rather than amendment of his existing authority.<sup>4</sup> Finally, applicant avers that the existing employees of A-Total Transportation Service, Inc., will not be affected.

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<sup>1</sup> E.g., In re Bethany Travel Agency, Inc., t/a Bethany Travel & Limo. Serv., & Bethany Limo. & Buses, Inc., No. AP-98-23, Order No. 5401 (Aug. 31, 1998) (same); In re Washington Shuttle, Inc., t/a Supershuttle, No. AP-96-13, Order No. 4966 (Nov. 8, 1996) (same); In re Community Multi-Servs., Inc., No. AP-95-56, Order No. 4753 (Jan. 30, 1996) (same).

<sup>2</sup> Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC Code Ann. § 1-2414 (1999)); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

<sup>3</sup> In re D.C. Tours, Inc., No. AP-01-72, Order No. 6364 (Sept. 28, 2001); In re Montgomery Assisted Transportation, Inc., No. AP-01-07, Order No. 6167 (Mar. 30, 2001).

<sup>4</sup> See Order No. 6364 (expansion through affiliate rather than division); Order No. 6167 (same).

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.<sup>5</sup>

THEREFORE, IT IS ORDERED:

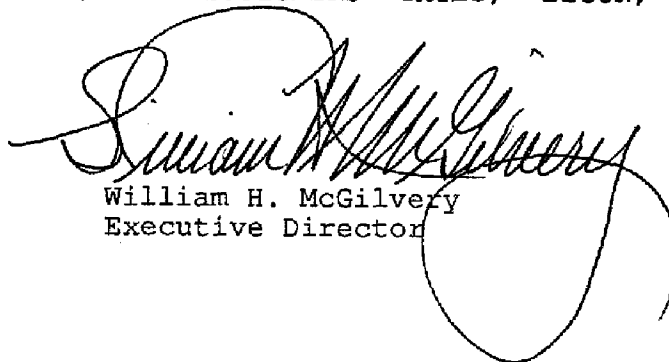
1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 695 shall be issued to Angelic Luxury Coach, Inc., 6108 Old Silver Hill Road, #210, District Heights, MD 20747.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER:



William H. McGilvery  
Executive Director

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<sup>5</sup> Order No. 6364; Order No. 6167.